

The complaint

Miss C complains that AXA PPP Healthcare Limited said it wouldn't be offering her renewal of her private medical insurance policy.

What happened

Miss C holds private medical insurance cover with AXA. In July 2023, AXA told Miss C that it wouldn't be offering her the option to renew her cover after her policy year ended on 31 January 2024. That was because it thought there had been a breakdown of trust and confidence in their relationship. Miss C was unhappy with this, and brought a complaint to this service.

Whilst our investigator was looking into Miss C's complaint, AXA changed its decision and agreed to offer her renewal of her policy from 1 February 2024. However, it said it would implement measures for the administration of the policy to prevent further difficulties in future.

Our investigator then issued his findings on the matter, and recommended the complaint be upheld. He thought AXA had been entitled to decide whether it offered Miss C renewal, and that it gave her sufficient notice of its intention not to do so. However, considering Miss C's personal circumstances, he thought AXA ought to have done more to assist her before reaching the point where it made that decision. He recommended that AXA pay Miss C £300 compensation for the distress and inconvenience she'd been caused.

I issued a provisional decision on 27 June 2024. Here's what I said:

'I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.'

Miss C's policy is an annual contract and renews each year. The policy terms explain that AXA can change any part of the policy from any renewal date, and it will give reasonable notice of this. Though given the nature of the policy (pre-existing medical conditions can impact a person's ability to obtain cover for their condition elsewhere), I think a consumer would reasonably expect this type of policy to continue each year.

Having said that, a financial business is entitled to make commercial decisions, and there may be occasions when an insurer decides it's appropriate not to renew someone's private medical insurance policy. We don't normally interfere with commercial decisions taken by a financial business, so long as we're satisfied that they've acted fairly. I've considered whether AXA acted fairly in doing so here, and I've addressed this later on in this decision.

Miss C has referred to the Consumer Duty. This was introduced on 31 July 2023 and doesn't apply retrospectively. AXA told Miss C on 31 July 2023 of its decision not to offer her renewal. So I've taken this into account when considering what's fair and reasonable in the circumstances of this complaint.

Miss C thinks that when AXA decided not to renew her cover, it was discriminating against her for being disabled.

The relevant law in this matter is the Equality Act 2010 ('the Act'). It's for the Courts to say whether or not AXA has breached the Act and discriminated against Miss C. However, I'm required to take the Act into account, if it's relevant, amongst other things when deciding what is fair and reasonable in the circumstances of the complaint.

Based on what Miss C has said about her health, I'm prepared to accept - for the purposes of this decision - that she has a condition which amounts to a disability as defined by the Act, which makes it a relevant consideration for me to take into account. The Act says that disability is one of the protected characteristics. Where a person has a disability, they should not be directly or indirectly discriminated against because of their disability, and where appropriate, reasonable adjustments should be made.

AXA says it made adjustments in an attempt to tailor its services for Miss C, including accepting late premiums, and hiring a solicitor to assist with its communications with her, but this proved insufficient. However, AXA hadn't asked Miss C what adjustments she might need when it was communicating with her, nor did it put in place any proper measures or boundaries in respect of correspondence or contact from her.

AXA says that it has previously given Miss C a designated point of contact, but after a while, she calls the general enquiries line. It says that when this happens, it has tried to find her an alternative point of contact and there is a handover period with the new contact with a full discussion taking place. Whilst AXA may have been attempting to help Miss C in doing this, it seems to me that this approach would cause unnecessary confusion. AXA could have put a note on Miss C's file so that if she called the general enquiries line, its staff members could see that she had a dedicated point of contact, and then referred her to that person. AXA says that Miss C has taken up a significant amount of its staff members' time, but I think that having one point of contact would have helped prevent this.

Crucially though, AXA didn't make Miss C aware that if the relationship between them continued to break down, there was the possibility that it may not renew her policy. AXA says it doesn't consider this would have been practical or productive. I disagree. If AXA had been more transparent with Miss C about its concerns, then matters may not have escalated to the point where AXA considered it necessary not to allow renewal of the policy.

So I think AXA did fail to make reasonable adjustments for Miss C taking into account her condition and vulnerabilities, and that this likely contributed to the breakdown of the relationship (and ultimately AXA's decision not to renew the policy). Taking all of this into account, I think AXA's decision not to renew the policy at the time was unfair.

Miss C has explained how she's been impacted by the matter. Not only was she upset and confused by AXA's decision, but she also felt that this negatively affected her mental health and ability to trust. She then had the worry about being left without medical insurance cover for existing health conditions for several months until AXA changed its decision. Taking all this into account, I intend to require AXA to pay Miss C £650 compensation to recognise the impact to her.

Miss C has questioned who made the decision at AXA not to renew her policy. As our investigator has explained, we would consider any decisions to have been taken by AXA as a financial business, rather than by any individuals working there.

Miss C has asked me to confirm what parameters AXA wants to put in place so that it can continue to provide her with cover. I understand that AXA has advised her directly of some of

these, though I've also asked our investigator to send Miss C a full list of the parameters (AXA has confirmed we can do so). If Miss C has any queries about this, she should contact AXA directly. I know Miss C also has concerns that AXA may decide not to renew her policy again in future. If that does happen, she can raise a new complaint with AXA about that decision in the first instance.'

I asked both parties for any further comments they wished to make before I made a final decision.

AXA responded with the following main points:

- It's unaware of Miss C's disability, and would like further clarification.
- It previously provided this service with details of the adjustments it had put in place to assist Miss C. These adjustments were made before it gave Miss C notice that it didn't intend to renew her policy. It thinks these adjustments were reasonable and says it put them in place in an attempt to develop a positive relationship with Miss C. Whilst it acknowledges it didn't advise Miss C that her policy wouldn't be renewed if their relationship continued to break down, it thinks if it had done so, this would have inflamed the position and would have been unhelpful.
- It disagrees with me that a consumer would reasonably expect this type of policy to continue annually. It says the policy isn't a long-term contract and renews each year. It maintains that its decision not to offer Miss C renewal was a commercial decision that it was entitled to make.

Miss C responded with the following main points:

- She would like me to confirm whether AXA breached the Consumer Duty. She thinks it's irrelevant that Consumer Duty only came into force on the date that AXA told her about its decision not to offer her renewal, as AXA had been aware before this that it would be coming into force.
- She thinks the compensation of £650 isn't high enough, and believes a court would award her far more.
- She would like further clarification on whether an insurer can refuse to offer renewal for a private medical insurance policy.
- She doesn't use her policy because of the potential increase to her premiums at renewal, and AXA has told her this is an issue. She has questioned whether AXA could cancel the policy because of this.
- AXA has given her a staff member as her main contact, and they told her she could call them. However, the parameters sent to this service by AXA say she should only email them.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I explained in my provisional decision that I was satisfied (for the purposes of my decision) that Miss C would be considered disabled under the Equality Act 2010. Although AXA has

asked for more information about this, it should already be aware of Miss C's mental health conditions. I don't intend to provide further comments on this.

AXA has repeated the adjustments it says it made for Miss C. I was already aware of these, and set out in my provisional decision why I didn't think AXA had made reasonable adjustments. So I won't repeat this here.

I've noted AXA's view that a consumer wouldn't expect this type of policy to continue each year, but I disagree. Although I appreciate it is an annual contract, there could be significant implications for someone with pre-existing conditions if an insurer decided not to offer them renewal. For that reason, it's very unusual for an insurer not to offer renewal under a private medical insurance policy. I therefore remain of the opinion that an insured would reasonably expect their policy to continue each year, as long as the insurer remained in the market and continued to offer cover to other policyholders.

So, although an insurer *can* make a commercial decision not to offer renewal under a private medical insurance policy, as I've said, this would be unusual. As I've explained in my provisional decision, we don't normally interfere with a commercial decision taken by a business, so long as we think that decision has been made fairly. Here, I concluded that AXA's commercial decision wasn't fair, though it had already overturned its decision and decided to allow Miss C's policy to renew.

I appreciate Miss C is concerned that AXA may decide not to offer her renewal in the future. However, I can't make any findings about what might happen in the future. If this does happen and Miss C doesn't think she's been treated fairly, she can bring a new complaint to us at that point.

Miss C says she doesn't use her policy because she's worried about the increase to her premiums at renewal if she does. Although Miss C says AXA has an issue with her doing this, I don't know why that might be. It's not unusual for someone to self-fund lower cost private medical treatment, and only use their private medical insurance policy for significant costs (such as operations). I would suggest Miss C contacts AXA for further clarification on this.

Although Miss C thinks it's irrelevant that the Consumer Duty only came into force when AXA told her it wouldn't be renewing her cover, as I've explained, the Consumer Duty isn't retrospective. Whilst I've taken the Consumer Duty into account where it's appropriate to do so, my findings have mainly focused on AXA's actions prior to 31 July 2023. As I said in my provisional decision, I think AXA's failure to make reasonable adjustments for Miss C contributed to the breakdown in their relationship – which in turn led to AXA's decision not to renew her policy. For the reasons I've explained., I don't think AXA acted fairly and reasonably in doing so.

I've noted that Miss C doesn't think the compensation amount of £650 is high enough. She hasn't provided any details why she thinks this. Nonetheless, I remain satisfied (for the same reasons as set out in my provisional decision) that this is a reasonable amount of compensation in all the circumstances and fairly reflects the distress that Miss C was caused by AXA.

Miss C has questioned the best way to get in touch with the staff member that AXA has given her as a point of contact. AXA has told this service that it would like Miss C to email the staff member. If the staff member has told Miss C something different, I would suggest she emails that person to obtain clarification on this.

My final decision

My final decision is that I uphold this complaint. I require AXA PPP Healthcare Limited to pay Miss C £650 compensation.*

*AXA must pay the compensation within 28 days of the date on which we tell it Miss C accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 28 August 2024.

Chantelle Hurn-Ryan
Ombudsman